

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK----- X
NEDIVA SCHWARTZ,

Plaintiff,

– against –

LIBERTY MUTUAL INSURANCE
COMPANY,Defendant.
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X

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: **MEMORANDUM DECISION AND
ORDER**

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: 23-CV-8925 (AMD) (JAM)

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ANN M. DONNELLY, United States District Judge:

On August 4, 2023, the plaintiff brought this action against Liberty Mutual Insurance Company in the Kings County Supreme Court of New York by filing a Summons with Notice, which alleges that Liberty Mutual breached its contract when it allegedly cancelled the plaintiff's insurance policy. (ECF No. 1.) On December 5, 2023, the defendant removed the case to federal court. (*Id.*) On December 15, 2023, the Magistrate Judge Joseph Marutollo directed the plaintiff to file a complaint on the docket. (*ECF Order dated Dec. 15, 2023.*) After several extensions, one of the plaintiff's lawyers¹ advised the Court that he planned to withdraw from his representation of the plaintiff. (ECF No. 10.) Judge Marutollo ordered the plaintiff to file a complaint by February 19, 2024, "proceeding either *pro se* or following the retention of new counsel." (*ECF Order dated Feb. 5, 2024.*) Judge Marutollo granted counsel's motion to withdraw. (*ECF Order dated Feb. 6, 2024.*) The plaintiff did not file a complaint.

¹ The plaintiff also lists Samul Spirgel on the docket—as Judge Marutollo explained, "it is not clear if Mr. Spirgel still represents" the plaintiff. (*ECF Order dated Mar. 4, 2024.*) Judge Marutollo ordered the plaintiff to "indicate whether Mr. Spirgel represents Plaintiff in this matter by March 7, 2024," and, "[i]f not, Mr. Spirgel shall file a motion to withdraw from this action." (*Id.*) Neither the plaintiff nor Mr. Spirgel complied with this order.

On February 27, 2024, the defendant moved to dismiss this action without prejudice for failure to prosecute. (ECF No. 15.) On March 4, 2024, Judge Marutollo ordered the plaintiff to show cause by March 11, 2024, as to “why this case should not be recommended for dismissal in light of Plaintiff’s failure to comply with Court orders.” (*ECF Order dated Mar. 4, 2024.*)

The plaintiff has not responded to the order to show cause, opposed the motion to dismiss, or otherwise communicated with the Court. Accordingly, the plaintiff’s case is dismissed without prejudice for failure to prosecute. *Est. of Ellington ex rel. Ellington v. Harbrew Imports Ltd.*, 812 F. Supp. 2d 186, 197–98 (E.D.N.Y. 2011) (dismissing for failure to prosecute where it was “apparent” that the claimant had “stopped prosecuting” their claims). The Clerk of Court is directed to enter judgment, close this case, and mail a copy of the order to the plaintiff.

SO ORDERED.

s/Ann M. Donnelly

ANN M. DONNELLY
United States District Judge

Dated: Brooklyn, New York
April 9, 2024